

# Chapter X

## ACQUISITION

### Introduction

Missouri CDBG grantees are required to comply with uniform acquisition and relocation policies and procedures as set forth in the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended (Uniform Act). Also, under Section 104(d) of the Housing and Community Development Act of 1974, as amended, CDBG grantees have the responsibility to minimize displacement that results from CDBG funded projects. If Federal financial assistance is used in any part of the project, the Uniform Act governs the grantee's acquisition of real property for the project and any resulting displacement, even if local or private funds are used to pay the acquisition costs. **CDBG acquisition and relocation guidelines are applicable to a project from the date of the grantee's pre-application public hearing.**

### What is the Uniform Act?

It is an act passed by the U.S. Congress and may be found at: [www.hud.gov/relocation](http://www.hud.gov/relocation)

The Act authorizes the Department of Transportation to be the lead agency to develop the regulations to implement the Uniform Act. The regulations were revised in 2004 and may be found at 49 CFR Part 24. They were published in the Federal Register on January 4, 2005 and **became effective on February 3, 2005.**

### The Uniform Act has a dual public policy intent:

Real Property Acquisition: It is the intent of the Act to encourage and to expedite the acquisition of real property by agreements with property owners, to avoid litigation and relieve congestion in the courts, to assure consistent treatment for property owners in Federal programs, and to promote public confidence in Federal land acquisition practices.

Relocation Assistance: The intent of the Act is to establish a uniform policy for fair and equitable treatment of persons displaced as a result of Federal and Federally assisted programs. Relocation assistance must be available as specified in the applicable provisions of the Uniform Act or, if applicable, under Section 104(d) of the Housing and Community Development Act.

### When does the Uniform Act apply?

Property acquisition under the Uniform Act begins with the grantee's decision to "acquire" a specific property or properties for a CDBG project. It is required because the use of CDBG funds in the project makes it a "Federally assisted" project and therefore subject to the requirements of Subpart B of the Uniform Act, Section 24.101.

It applies to any project acquisition of:

- permanent easements,

- fee simple title,
- long-term leases of 50 years or more, or
- rights of way.

The Act applies when the grantee will use their power of eminent domain to acquire the land should the voluntary acquisition process fail.

**When does the Uniform Act NOT apply?**

The only acquisition activities that are not subject to the Uniform Act are:

- 1) Temporary easements for construction purposes,
- 2) The grantee has the power of eminent domain, but states in their preliminary acquisition notice that they will not use it should the property not be acquired.
- 3) Grantee and/or subgrantee does not have the power of eminent domain.
- 4) Acquisition of property from a government agency, and the grantee does not have the power of eminent domain.
- 5) Donation(s) of property by the owner, where the agency has fully informed the owner of their Uniform Acquisition rights. Review the donation paragraphs of this chapter.

## **PROPERTY ACQUISITION PROCEDURES**

Property acquisition under the Uniform Act **is a sequential process** that begins with the grantee's decision to acquire a specific property or properties (e.g., easements) for a CDBG project. As stated above, most acquisitions made after the grantee's pre-application public hearing date are subject to Subpart B of the Uniform Act, regardless of the source of payment. The Acquisition Process Under the URA chart in this chapter presents the typical acquisition process under the Uniform Act.

### **Ten Sequential Steps:**

- 1) Determine acquisitions necessary for the CDBG project. The first step in the acquisition process is to review each of the project activities with the grant administrator, engineer/architect, and the grantee's staff or board to determine the particular properties that must be obtained whether it is fee simple title, permanent easements, a long term lease (50 years or more), or rights of way. Acquisition is defined as either a purchase or donation under the Uniform Act. The CDBG procedure regarding donations is covered under item 4 of this section.
- 2) Establish title evidence to determine actual ownership. The second step in the process is to obtain title evidence, such as the deed and the legal description of the property. Review the county recorder's deed records to determine the actual property owner and review the legal description of the property to determine any existing easements.
- 3) Provide Preliminary Acquisition Notice/Notice of Interest and HUD Brochure.

a) For full fee simple title, long term lease, and right of way acquisition:

(1) Provide preliminary acquisition notice

(2) Provide HUD brochure "When a Public Agency Acquires Your Property"

The Notice and the HUD Brochure can be sent by regular mail, certified or registered mail with return receipt requested, or hand delivered. If delivered by regular mail or hand delivered, the signature of the property owner is required. Copies of this notice and all other acquisition materials should be maintained in separate files established for each property acquisition.

b) For permanent easements:

(1) Provide CDBG Easement brochure

This brochure can be sent by regular mail, certified or registered mail with return receipt requested, or hand delivered. If delivered by regular mail or hand delivered, the signature of the property owner is required. Copies of this notice and all other acquisition materials should be maintained in separate files established for each property acquisition. If Rural Development has funds in the project, the brochure distribution is still a requirement.

- 4) Donations: Nothing in the regulation prevents a person after being informed of their rights to just compensation, based on a review of available data or an appraisal of their real property, from donating their property or easement to the grantee. Because a property owner is entitled to just compensation under the Uniform Act, a donation should never be assumed. A "Waiver of Just

Compensation” should be prepared by the grantee. It should clearly state that the owner understands that he cannot be required to donate the property or to sell it to the grantee at less than the amount of the appraised value unless the owner voluntarily agrees. The waiver should clearly show the property owner’s intent to voluntarily release the grantee of its obligation to determine just compensation based upon an appraisal after being informed of their rights under the Uniform Act. Because a property owner is entitled to an appraisal before making a decision to donate, it is incumbent on the grantee to document that the owner was made aware of that right prior to obtaining the signed waiver. A waiver signed by each property owner must be kept in the grantee’s acquisition files.

Keep in mind that a donation is defined as the grantee’s acquisition after fully informing the property owner of their Uniform Act rights. The specific property is conveyed to the grantee by written consent of the owner. Here the property owner agrees to transfer full title, grant a permanent easement, establish a lease of 50 years or less, or grant right-of-way interest without receiving just compensation. However, the grantee is responsible for all incidental costs associated with the transfer and recording of the property.

A grantee must issue:

- a) Preliminary Acquisition Notice to owner informing of URA rights
  - b) HUD brochure titled “When a Public Agency Acquires Your Property”
  - c) Obtain Signed Waiver of Rights of Just Compensation and Right to an Appraisal
  - d) Grantee must document, in the project files, how “market value” was determined.
- 5) Appraisal and Review Appraisals: An appraisal and review appraisal are required if the value of the property or easement exceeds \$10,000. To determine if a property has a value less than \$10,000, the grantee must have a determination made in writing by a qualified person familiar with the local property market values.
- a) When an appraisal is required for compliance with the Uniform Act, the grantee should procure both an independent, professional appraiser and a review appraiser in accordance with the CDBG competitive proposal method.
  - b) No appraiser shall have an interest in the property to be acquired. A professional service contract must be executed with the appraiser.
  - c) A sample HUD appraisal contract is available upon request from CDBG; however, CDBG recommends the use of the standard appraisal contract used by licensed Missouri appraisers.
  - d) The Uniform Act requires the grantee’s appraiser to invite the property owner to accompany him during the property inspection.
  - e) The Act also requires that the appraiser not consider race, color, religion, or the ethnic characteristics of a neighborhood in estimating the value of real property.
  - f) The appraiser shall disregard any decrease or increase in fair market value of the real property caused by the project to the extent permitted by applicable state law. The completed appraisal

and review appraisal must be maintained in the grantee's acquisition file of that property owner.

**REVIEW APPRAISAL:** The grantee must conduct a review appraisal of all completed appraisals. A qualified staff appraiser or an independent review appraiser must do the review appraisal. The review appraisal must be written. It should focus on the adequacy of the first appraiser's supporting data and the soundness of that appraiser's opinion of fair market value. The review appraiser should set forth a recommendation as to the fair market value of the property. If this amount differs from the original appraisal, the grantee may use the review appraiser's recommended fair market value or secure an additional appraisal.

An appraisal is not required if the owner is donating the property and releases the grantee of the appraisal obligation, or the grantee determines that an appraisal is unnecessary because the valuation is uncomplicated and the fair market is estimated at \$10,000 or less, based on a review of available data. Available data may, for example, be the price per acre based on recent property sales of similar property in the area. Documentation of the available data must be maintained in each acquisition file.

- 6) Establish Just Compensation Amount. The amount of just compensation cannot be less than the selected appraisal's determination of "market value." The grantee must then prepare a written "Statement of the Basis for the Determination of Just Compensation." This statement includes:
  - a) A legal description of and location of the property;
  - b) The interest to be acquired (e.g., fee simple, easement, etc.);
  - c) If applicable, an inventory identifying the building structures, fixtures, etc., which are considered to be a part of the real property; and
  - d) In the case of tenant-owned improvements, the amount determined to be just compensation for the improvement consistent with the Uniform Act, Section 24.105(c).
- 7) Issue Written Offer/Notice of Just Compensation: The next step is for the grantee to issue to the owner both a written Offer to Purchase with the written Statement of the Basis of the Determination of Just Compensation. The offer must specify a date on which the negotiation for the sale of the property can be arranged and a reasonable response date.
- 8) Successful Negotiation of Offer: At this point, the grantee should negotiate the sale of the property. The owner shall be provided a reasonable opportunity to respond to the offer and to present information, which he believes is relevant to determining the value of the property. The owner may make a counter offer or may suggest modifications to the proposed terms and conditions. If CDBG funds are used to pay the acquisition cost, the grantee shall prepare a written justification to show that the available market information (e.g., appraisals, recent court awards, estimated trial cost, or valuation problems) supported the negotiated settlement.
- 9) If Negotiations Are Not Successful: Send a "final offer letter" that includes a final response deadline to the property owner. The letter may not be coercive. If the property owner fails to respond, the grantee may exercise their statutory right of condemnation after the expiration of the deadline in the final offer letter.

Every attempt should be made to negotiate successfully with the owner. If it is believed that the cost of the condemnation proceeding or resulting delays in project implementation would be greater than the additional amount being requested by the owner, the owner's proposed higher value may be accepted.

Condemnation can be substantially more expensive than a negotiated price, and the grantee is required to pay the amount established by the court in a condemnation proceeding. For this reason, the grantee must determine and fully document the reasonableness of the cost of proceeding to condemnation. The grantee shall not take any coercive action against a property owner in order to induce an agreement on the price to be paid for their property.

10) Transfer title: Once a negotiation is successful or a condemnation proceeding is completed, the following tasks remain:

- a) The deed, the easement, or the relevant legal form for the type of acquisition (permanent ownership) must be transferred and promptly recorded at the office of the county recorder of deeds.
- b) The grantee pays or reimburses the owner for incidental reasonable costs associated with the transfer of title. These costs include, but are not limited to, recording fees, transfer taxes, evidence of title, and the legal description.
- c) The grantee is **not responsible** for any costs required to perfect the owner's title.

**Recordkeeping to Document Performance:** It is important that the grantee keeps records sufficient to document compliance with the provisions of the Uniform Act. A recommended acquisition recordkeeping system is provided in this chapter. Every step listed above that generates documents, forms, or paperwork must be found in each individual property owner's project file. Always maintain a separate file for each property owner.

**For Example, Downpayment Assistance File Documentation, 1378, 6-3 requires that you have in Grantee's Project Files:**

- 1) List of all parcels to be acquired.
- 2) Each Acquisition Case File must have:
  - a) Identification of the property owner;
  - b) Documentation that the property owner was informed of their Uniform Act rights. Copy of preliminary acquisition notice;
  - c) Copy of appraisal and review appraisal report;
  - d) Copy of Notice of Just Compensation and Statement for the Basis for the Determination of Just Compensation/Offer letter;
  - e) Copy of purchase contract and documents conveying the property;
  - f) Copy of closing statement including all incidental expenses; and

g) Copy of any appeal and the agency response.

**Reuse Plans:** If the acquisition and demolition activities are based on meeting the 51% LMI benefit national objective, the grantee must submit a reuse plan to CDBG to document the LMI benefit. The reuse plan must be submitted and approved by CDBG prior to the grantee's demolition activity. If the acquisition and demolition activities are based on achieving the national objective of eliminating slum and blight, a reuse plan is not required. However, the activities must meet either the grantee's slum and blight criteria, the State's or HUD's slum and blight criteria, or are determined infeasible to rehabilitate.

## **Uniform Act Relocation Requirements**

The Uniform Act explains the relocation payments and relocation advisory services for which a displaced person is **entitled**. Displaced individuals, families, businesses, nonprofit organizations, and farm operations are covered by the Act. Any person displaced as a result of a project's rehabilitation, demolition, or acquisition activities, **privately undertaken or public**, is entitled to a relocation payment and the advisory services specified in the Act. The following is a brief description of a displaced person's rights under the Uniform Act. Grantees should consult CDBG staff concerning questions about the application of the Uniform Act's relocation requirements to your project. Relocation notices, HUD acquisition and relocation brochures, claim forms, and other documents mentioned in this section may be obtained from the Exhibits 51-77 for this chapter, or from [www.hud.gov/offices/cpd/library/relocation/publications/index.cfm](http://www.hud.gov/offices/cpd/library/relocation/publications/index.cfm).

**Maintain a separate file for each project relocation. Grantees may not propose that a displaced individuals or families waive their relocation benefits 24.207(f).** A displaced individual or family is allowed to waive their acquisition right to "just compensation" for their existing displacement home, but a grantee may not propose that the family waive their relocation benefits.

In planning relocation activities, grantees should consider and rectify adverse impacts of displacement on minorities, the elderly, large families, and the handicapped where applicable. Also, the Uniform Act provides that the displaced person/family be provided the choice of relocating in their present neighborhood or other neighborhoods, consistent with the grantee's responsibility to affirmatively further fair housing.

The following section contains the procedural steps that are typically followed to complete a project's Uniform Act Relocation Activities:

- 1) **Rehabilitation Feasibility Determination:** A family is displaced as a result of a CDBG neighborhood development project's activities if the grantee documents that the family's house is not feasible to rehabilitate to CDBG health and safety HQS standards. A house is considered not feasible to rehabilitate if the rehabilitation inspector's cost estimate exceeds the CDBG rehabilitation cost limit of \$15,000, or \$15 per square foot to rehabilitate the home to CDBG health and safety HQS standards. A grantee must submit the inspector's cost estimate to your field representative for CDBG review and approval before issuing any acquisition/relocation notices.
- 2) **Relocation Assistance Notice:** Once a grantee has determined that a family will be displaced, the grantee must provide the displaced family with both a Notice of Eligibility for Relocation Assistance (Exhibits 64A and 64B) and with a general written description of the grantee's relocation assistance program. The relocation notice and program description may be included with the Preliminary Acquisition Notice (Exhibits 52 or 53). The applicable HUD relocation brochure (Exhibits: 65A, 65B, 65C, 65D, or 65E), and acquisition brochure (Exhibits 54A and 54B), if applicable, must be provided with the notice(s). At least three comparable replacement units must be offered to the displaced family in the relocation notice (Exhibit 66). All required notices must be sent by certified mail or hand delivered and documented with a return or signed receipt.

The Notice of Eligibility for Relocation Assistance should inform the displaced person/family of at least the following:



- a) Not required to move without, at the minimum, a 90-day written notice from the grantee;
  - b) Eligible amounts of the relocation assistance and moving expense payments, consistent with the requirement of the Act;
  - c) A person/family cannot be required to move unless the grantee has offered at least one comparable replacement unit that meets HUD's decent, safe, and sanitary standards. Section 8 standards may be used to meet this requirement;
  - d) The person/family is eligible for relocation advisory services, such as help in filling out claim forms for both relocation and moving expense payments, referrals to comparable replacement dwellings, transportation if necessary to inspect comparable replacement units, and a personal interview to determine advisory service needs;
  - e) The person has the right to appeal the grantee's determination of non-eligibility or the amount of moving and relocation payments through the grantee's grievance process; and
  - f) The name and telephone number of the grantee's relocation assistance administrator.
- 3) **Moving Expense Payment:** Displaced individuals, families, businesses, nonprofit organizations, and farm operations who are required to move because of project acquisition, rehabilitation, or demolition are eligible for a moving expenses payment, which includes utility disconnection and/or hookup costs, regardless of length of occupancy.
- a) "Actual" or "fixed" moving expenses must be documented with a moving expense claim form (Exhibit 68). The amount of the "fixed" moving expense payment for individuals and families is based on a published HUD schedule (Exhibit 69), so please consult with CDBG to obtain the most recent schedule. The payment of "actual" moving expenses must be documented in each displaced person's file with copies of canceled checks and attached receipts. Eligible moving expenses are transportation costs within 50 miles, packing, crating, storage, insurance, and other reasonable and necessary costs.
  - b) Moving expenses may not be waived by a displaced family. The back of the moving expense claim form must be used to explain who will pay for utility disconnection and re-connection fees and who will move the family's belongings. The displaced family must sign this form.
  - c) **Self-Moves:** If a displaced family elects to take full responsibility for their move, the grantee may make a moving expense payment based on an amount not to exceed the lower of two acceptable bids or estimates. An uncomplicated move may be based on a single bid or an estimate. Receipts must be in the family's file to document the amount of payment of the actual moving costs.
- 4) **Relocation Assistance Payment:** Individuals and families are entitled to a relocation assistance payment for the purchase of a comparable replacement dwelling. The payment can take the form of rental assistance, down payment assistance, a comparable replacement home, or last resort housing assistance. Displaced businesses, nonprofit organizations, and farm operations are also entitled to a payment for relocation expenses.

The law covers two basic classifications of displaced persons and includes the following occupancy eligibility requirements:

- a) **180-day Homeowner is eligible for a Replacement Housing Payment.** This person must have owned and occupied the displacement dwelling 180 days prior to the initiation of acquisition negotiations and purchased and occupied a decent, safe, and sanitary comparable replacement house. This payment may exceed \$22,500. It is calculated by summing the:

- (1) Full price differential between the displacement home and the lesser of either the actual replacement home or the dwelling designated by the grantee as the most comparable replacement home;

*Replacement dwelling purchase price:* \$31,500

*Less Displaced dwelling purchase price:* 12,500

*Differential* =\$19,000

- (2) plus all increased mortgage interest cost, necessary to retain the same monthly mortgage payment and based on buy-down method (example: mortgage buy-down and other debt service cost);

+\$ 2,000

- (3) plus all incidental expenses, such as recording fees, prorated taxes, appraisal fees, notary fees, boundary surveys, termite inspection, title insurance, deed preparation, etc.(refer to 24.106 of the Uniform Act);

+1,300

*Total Housing Replacement Payment* =\$22,300

A 180-day claim form (Exhibit 70) must be filed with the grantee by the displaced family before the grantee may process their relocation payment. The claim form must be filed with the grantee within one-year from either the day that the grantee pays the displaced family “just compensation” for their displacement dwelling, or on the day the displaced family is notified of an available comparable replacement dwelling. They should be notified of at least one, but preferably three dwellings.

An alternative method to the above example is for the displaced family to donate their displacement dwelling and receive the full price of the replacement dwelling. This step avoids the appraisal process and costs, but accomplishes the purchase of the same replacement unit. Applied to the above example, the displaced family would donate their displacement unit and receive a \$31,500 relocation assistance payment, instead of \$22,300, to purchase the same replacement dwelling. The differential is the value of the dwelling purchased by the grantee.

- b) 90-day Tenants or Homeowners who have:

- (1) Occupied the dwelling from which they will be displaced for no less than 90 days immediately prior to the initiation of the acquisition negotiations,
- (2) rented or purchased and occupied a decent, safe, and sanitary replacement unit; and

- (3) filed their relocation assistance claim form within one year of moving to their replacement dwelling with the grantee.

The 90-day tenant or homeowner is eligible to choose between one of the following two forms of payment:

- (1) Rental Assistance Payment not to exceed \$5,250\*. Payment may be made in a lump sum for down payment assistance, or averaged over several months, not to exceed 42 months for rental assistance. Payments are calculated by adding the monthly rent and estimated utilities cost of the lesser of either the **comparable replacement unit** or the **actual replacement unit** and then subtracting the same monthly costs of the **displacement dwelling**. A claim form (Exhibit 77) for a rental assistance payment must be approved by the grantee and maintained in the claimant's relocation file.

<i>Example:</i>	<i>Replacement or Comparable unit's monthly rent</i>	<i>\$275.00</i>
	<i>Replacement or Comp unit's average monthly utilities</i>	<i>+ 100.00</i>
	<i>Replacement or Comp unit's base monthly cost</i>	<i>\$375.00</i>
	<i>Less displaced dwelling base monthly cost</i>	<i>- 250.00</i>
	<i>Averaged monthly differential</i>	<i>\$125.00</i>
	<i>X 42 month limit</i>	<i>x 42</i>
	<i>Rental Assistance Payment</i>	<i>\$5,250.00</i>

\*The displaced dwelling monthly cost may also be calculated using 30% of the displaced person's average monthly gross household income or the amount designated for rent and utilities if the displaced person is receiving a public assistance payment. For determining the amount of the relocation payment, the lesser of these two calculations should be used.

The replacement rental unit selected by the displaced person must meet HUD's decent, safe, and sanitary standards (Exhibit 67).

- (2) The Down Payment Assistance Payment, like the rental assistance payment, is also limited to \$5,250. Here, the relocation assistance payment is available to a 90-day tenant who **purchases** a replacement home. This dwelling must also meet HUD's decent, safe, and sanitary standards.

This payment is calculated in the same manner as the above rental assistance payment. The displaced family must file a down payment assistance claim form with the grantee. A claim form must be processed before the grantee can make payment.

- 5) **Replacement Housing of Last Resort:** If comparable replacement sale or rental housing is not available, then last resort housing may be provided to the displaced person by the grantee. A displaced family may also request that the last resort housing remain on their existing lot. Last resort housing shall be provided on a reasonable cost basis.
- 6) The activities for providing replacement housing of last resort include, but are not limited to:

- a) Rehabilitation of and/or additions to an existing replacement dwelling;
  - b) Relocation and, if necessary, the rehabilitation of a dwelling;
  - c) Construction of a new replacement dwelling
  - d) Removal of barriers to the handicapped; and
  - e) Meeting the handicapped adaptability and accessibility design and construction requirements.
- 7) **Optional Relocation:** Under section 105(a)(11) of the Housing and Community Development Act, the State may permit a grantee to provide relocation payments and other relocation assistance to persons displaced by activities that are not subject to the Uniform Act or Section 104(d) activities. The assistance shall only be provided upon the basis of a written policy adopted by the recipient and available to the public. The adopted policy shall describe the relocation assistance to be provided on an equal basis within each class of displaced families.
- 8) **Re-establishment Expenses Payment:** Small businesses, farm operations, or nonprofit organizations are eligible to receive a payment for expenses actually incurred in re-establishing their operation at the replacement site. Expenses must be documented and be reasonable and necessary. Please contact a CDBG field representative for claim forms, the HUD brochure, and the sample notice letter for this type of relocation.
- 9) **Advance Relocation Payments:** If a person demonstrates the need for an advance relocation payment in order to avoid or reduce a hardship, the grantee shall issue the payment, subject to safeguards as are appropriate to ensure that the objective of the payment is accomplished.
- 10) **Notice of Denial of Claim and Right of Appeal:** The Uniform Act allows a relocation applicant the right to appeal a grantee's denial of eligibility of their relocation application or the determination of the amount of relocation assistance. All grantees must incorporate this right of appeal in their adopted grievance procedure. Refer to 49 CFR 24.10 of the Uniform Act for the required procedure.

### **Additional Relocation Assistance Recordkeeping Requirements**

- 1) **List of Occupants:** For each project, the grantee's files shall include a list identifying the name, address, and race/ethnicity (and gender if single head of household). See Exhibit 76.
- 2) **Description of Relocation Advisory Services:** A general description of the advisory services for which the person may be eligible (including assistance to relocate to a comparable replacement dwelling, basic eligibility conditions, and procedures for obtaining payments). The general description can be in the form of a leaflet that is provided to each displaced family.
- 3) **Offer of 3 Comparable DSS Replacement Dwellings:** Identification of actual replacement property (address), rent/utility cost or sale price (if dwelling), date of relocation, and currently available. Specifically designate one as the grantee's most comparable unit.
- 4) **Decent, Safe, and Sanitary Inspection:** Copy of replacement dwelling inspection report showing condition of unit and date of inspection.

- 5) Maintain a relocatee contact log.

## **Residential Anti-displacement and Relocation Assistance Plan Requirements, Section 104(d) of the Housing and Community Development Act of 1974**

The Section 104(d) relocation requirements are designed to protect from depletion, by **demolition** or **conversion** to another use (i.e., parking lot or condos), the available stock of low/moderate-income houses or apartments in CDBG assisted projects. Therefore, grantees undertaking any demolition activities must pay attention to these requirements, whether or not they are acquiring a house or relocating the occupant.

The Act requires that before a CDBG grant can be awarded, a grantee **must** certify that it is following a "residential anti-displacement plan" (Exhibit 72). All grantees submitted this certification in the form of their "Sample Plan" (Form N) with their original grant application. However, should a Section 104(d) demolition or conversion occur during the implementation of the grant, an amended Section 104(d) plan must be submitted for review and approval to the CDBG staff, **prior to** the initiation of the demolition and/or conversion activities.

A grantee **must** obtain CDBG's review and approval of their amended plan **prior to** CDBG funds being drawn down to pay for those demolition, acquisition, and/or relocation activities.

- A Section 104(d) notice (Exhibit 73) must also be published prior to the 104(d) activities.
- The grantee's amended plan must comply with the Section 104(d) **one-for-one replacement requirements**. Under that rule, all **occupied** and **vacant occupiable** low/moderate-income dwelling units that are **demolished** or **converted** to a use other than as low/moderate-income dwelling units, as a direct result of activities assisted under the CDBG program, **must** be replaced with low/moderate-income dwellings units.
- A "vacant occupiable dwelling unit" is defined as a vacant unit that is in standard condition, or a vacant unit that is in substandard condition, but is suitable for rehabilitation, or a vacant unit in any condition that has been occupied within the 12 months preceding the date of the contract between the grantee and the property owner whose unit will be demolished or converted.
- The State defines "substandard but suitable for rehabilitation" as the costs to rehabilitate the finished space of the unit to CDBG's Health and Safety Standards. That cost may not exceed \$15,000 or \$15 per square foot.
- In a CDBG neighborhood development project, a grantee may rehabilitate dwellings that have been vacant at least 90 days and use them as their Section 104(d) one-for-one replacement units.
- The unit must remain affordable to LMI households for at least 10 years. A unit is affordable if the mortgage or rent does not exceed the applicable HUD fair market rent.

**Exception to Section 104d One-for-One Replacement:** Section 104(d) provides for an exception to the one-for-one replacement requirement. The one-for-one replacement requirement will not apply if there is an adequate supply of **available**, vacant low/moderate-income dwelling units in standard

condition in the grantee's jurisdiction. The State's finding of an "exception" is subject to HUD's review and approval. To support an exception request, a grantee must provide documentation of an excess supply of available vacant homes and/or apartments that are affordable to LMI families. Also, the Section 104(d) one-for-one replacement requirement will not apply to any LMI unit that has been vacant for more than 12 months.

**Section 104(d) Relocation Assistance.** Persons of LMI households who are displaced as a result of the demolition of any housing unit or the conversion of a low/moderate income unit to another use must be provided with the following relocation assistance by the grantee:

- 1) Advisory services;
- 2) Actual or fixed moving expenses as described in the Uniform Act;
- 3) Reimbursement for reasonable and necessary security deposit and credit checks; and
- 4) Replacement housing assistance payment. The replacement housing assistance for a 180-day homeowner is identical to that discussed under the Uniform Relocation Act section of this chapter.
- 5) The grantee must offer a person choosing to rent the following relocation assistance:
  - a) Section 8 housing voucher/certificate and referrals to comparable replacement units where the owner agrees to participate in the Section 8 Program; or
  - b) Cash rental assistance to reduce the rent and utility cost to 30% of the gross household income for 60 months. Grantee must make appropriate referrals to comparable replacement units.

Document payment with a Section 104(d) claim form and a copy of the canceled check.

**Uniform Act Relocation Assistance Payment:** The displaced person has the option to choose Uniform Act Relocation Assistance instead of the Section 104(d) relocation assistance described above. The Uniform Act assistance is a viable option for occupants who want to purchase a home rather than continue to rent.

## **CDBG Monitoring**

In this, as in other areas, CDBG is responsible for monitoring compliance with applicable Federal and State laws and regulations. In conducting field reviews of activities, CDBG staff will use the Acquisition Checklist in the Program Administration Chapter of this manual. Please do not hesitate to call your CDBG Field Representative or the staff Acquisition Specialist regarding any questions you might have. Also, do not hesitate to call for brochures, forms, or sample notices and waiver forms. In addition to the forms and materials included or mentioned in this chapter, HUD & CDBG brochures, claim forms, and regulations are available at:

- 1) [www.hud.gov/offices/cpd/library/relocation/publications/index.cfm](http://www.hud.gov/offices/cpd/library/relocation/publications/index.cfm) for HUD Brochures
- 2) [www.hud.gov/offices/cpd/library/relocation/index.cfm](http://www.hud.gov/offices/cpd/library/relocation/index.cfm) for the Uniform Act, Section 104(d), and other helpful resources and information
- 3) [www.ded.mo.gov/cd/cd\\_forms.htm](http://www.ded.mo.gov/cd/cd_forms.htm) (Acquisition)

## **URA Timeframes for Notices**

<b>ACTIVITY:</b>	<b>Approval of Project</b>	<b>Site Selection</b>	<b>Appraisal</b>	<b>Property Closing</b>
<b>ACQUISITION NOTICES SENT:</b>		Notice of Interest of Notice of Intent to Acquire		Notice of Just Compensation (Initiation of Negotiations)
<b>RELOCATION NOTICES SENT:</b>		General Information Notice to occupants		Notice of Eligibility for Relocation Benefits

## **SUGGESTED ACQUISITION RECORDS**

Following are suggestions for establishing an acquisition recordkeeping system:

- 1) A separate acquisition case file should be established for each property owner who is covered by the requirements of the Uniform Act.
- 2) Files should be maintained for three years after completion of the project.
- 3) Recommended contents of each file are as follows:
  - a) A form indicating the applicable CDBG project number, date of project approval, parcel number for the property, and proof of title from each owner and tenant.
  - b) A copy of the preliminary acquisition notice, documentation that the owner received the notice, and the HUD brochure, When A Public Agency Acquires Your Property.
  - c) Documentation that the owner was invited to accompany the appraiser.
  - d) A copy of the appraisal(s) on which determinations of fair market value was based.
  - e) A copy of the written purchase offer, State of the Basis for the Determination of Just Compensation, and the date of delivery to owner.
  - f) A copy of the recorded deed, recorded easement, real estate and contract, and any donation/waiver forms.
  - g) A copy of the closing statements identifying incidental expenses.
  - h) Evidence that the owner actually was paid (i.e., copies of canceled checks).

A copy of any grievance appeal concerning the amount of payment or eligibility together with a copy of all pertinent determinations and other relevant documentation.